

Summary of Fire and Police Arbitration Act

The Fire and Police Arbitration Act (FPAA) governs the collective bargaining, unit membership, union certification/de-certification, arbitration and unfair labor practice requirements between municipalities and police and fire labor unions. The FPAA falls under the oversight of the Public Employees Relations Board (PERB), a state agency located in Oklahoma City. The FPAA is found at 11 O.S. Section 51-101 and following.

Bargaining. The duty to bargain is broadly worded to include “wages, hours and other terms and conditions of employment.” The Oklahoma Supreme Court has held that the city/town is held to the highest standard of good faith. The police and fire labor union members are prohibited from striking under Oklahoma law.

Unit Membership. The Act mandates that all the “permanent paid members” of any fire or police department are eligible to be members of the bargaining unit. Unlike other state’s, Oklahoma does not exempt out supervisors. The only exemption from union membership is the chief and one administrative assistant.

Two major areas of court cases and PERB complaints over bargaining unit membership are: (1) who is a police officer under the FPAA definition; and (2) the right of a probationary police officer or firefighter to full contract protections including the right to challenge management decisions via grievance arbitration.

Unfair Labor Practice. A major area of litigation under the FPAA is over the meaning of the Act’s prohibition of unfair labor practices. These are heard at PERB and appealed to District Court. Many of the cases are in the area of failure to bargain in good faith arising from charges of unilateral action as well as a failure to participate in arbitration. These disputes oftentimes turn on whether the collective bargaining agreement contains a sufficiently broad management rights clause to authorize the management action taken.

Certification of the Union. The FPAA has detailed requirements on certification/decertification of a labor union. PERB is given jurisdiction over these actions. Voting is done by secret ballot and the results are certified by PERB.

PERB. PERB is composed of a three member board with staggered five year terms appointed by the Governor. The Attorney General’s office provides legal representation to the Board. Its areas of jurisdiction are in union formation and unfair labor practice charges. Appeal from PERB decisions are taken to district court and are governed by the Administrative Procedures Act. PERB is a full party to the appeal.

Arbitration. There are two types of arbitration in the FPAA. There is interest arbitration (occurring when the parties have failed to reach agreement via bargaining) and grievance arbitration (which resolves disputes over the meaning of the agreement once it is in place). Arbitrators are usually selected via the Federal Mediation and Conciliation Service (FMCS). The cost of arbitration is shared between the parties and formal rules of evidence do not control.

Grievance arbitration is binding on all parties except in narrow circumstances that are still evolving via litigation. Interest arbitration is not binding on the municipal employer. The city or town can reject the interest award and present the union and city/town last best offers to the voters in a special election. If the parties cannot reach agreement on the ballot language then the matter is referred back to the interest arbitrator who will determine the ballot language. The decision of the voters then establishes the contract.

Past Practice/Management Rights. This is a major area of dispute in the FPAA. The outcome of the controversy normally revolves around the meaning of the language in the collective bargaining agreement. The municipality is usually arguing that the contract grants it the authority to take a particular action (usually via a management right) and the union is arguing the opposite. In these situations the union normally argues that a past practice exists between the parties to handle a matter in a certain way and that this past practice controls the outcome of the dispute.

[Back To Story Page](#)